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 BMW OF NORTH AMERICA, LLC

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

BMW OF NORTH AMERICA, LLC, a ) Case No. CV 13-8470-GW(SHx)  
 Delaware Limited Liability Company, ) [Filed: November 15, 2013]

Plaintiff,

) Hon. George H. Wu  
 ) Courtroom 10

v.

MKRTICH AYRAPETYAN, an  
 individual,

) **MONEY JUDGMENT IN FAVOR  
 OF PLAINTIFF AFTER DEFAULT  
 AND AFTER PROVE UP**

Defendants.

) DATE: December 22, 2014  
 ) TIME : 8:30 AM  
 ) COURTROOM: 10

) DISCOVERY CUT-OFF: NONE  
 ) MOTION CUT-OFF: NONE  
 ) TRIAL DATE: NONE

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1 This above entitled court (**the “Court”**) set a prove-up on Plaintiff’s Motion  
 2 For Default Judgment (**the “Motion”**) against Defendant Mkritch Ayrapetyan  
 3 (**“Defendant”**) to be presented and considered at the above referenced date, time,  
 4 and place [Docket No. 34], and the matter came on regularly for hearing as  
 5 scheduled. Robert A. Philipson, Esq. and Kate A. Lehrman, Esq. appeared on  
 6 behalf of the above captioned plaintiff, BMW of North America, LLC (**“Plaintiff”**.)

7 The Court having reviewed and considered all of the Plaintiff’s moving  
 8 papers, including, but not limited to, its Memorandum of Points and Authorities  
 9 together with the evidentiary declarations of Kate Lehrman [Docket No. 18-1],  
 10 Nathan Hood [Docket No. 18-7], Robert Lanzetti [Docket No. 18-9], and Sean  
 11 Clemens [Docket No. 18-12]; the Court having considered the comments of counsel  
 12 appearing on behalf of Plaintiff; the Court having adopted its tentative ruling; the  
 13 Court having considered the post hearing declaration of Howard S. Harris  
 14 presenting, as directed by the Court, supplemental evidence establishing subject  
 15 matter jurisdiction; the Court having considered the post hearing declaration of  
 16 Israel Saperstein presenting, as authorized by the Court, supplemental evidence of  
 17 Defendant’s current financial condition in support of Plaintiff’s prayer for punitive  
 18 damages; and good cause appearing therefor,

19 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

20 **A.** The Court decrees the below money judgment based upon the following  
 21 FINDINGS OF FACT and CONCLUSIONS OF LAW:

- 22 1. The Court has jurisdiction over the subject matter of this case  
 23 based upon diversity of citizenship.
- 24 2. The Court has *in personam* jurisdiction over the Defendant, who  
 25 was properly served with the summons and complaint and a copy of the  
 26 Motion.

1           3. Plaintiff's complaint and the evidentiary declarations presented to  
2           the Court are sufficient to establish the following legal elements of  
3           Plaintiff's malicious prosecution claim:

- 4               a. Defendant initiated legal proceedings against Plaintiff;  
5               b. the proceedings were terminated in Plaintiff's favor;  
6               c. Defendant lacked probable cause to pursue his earlier claims of  
7               defect in his leased 2008 BMW 750Li ("**Defendant's Car**");;  
8               d. Defendant continued throughout the course of such legal  
9               proceedings to pursue claims of defect in Defendant's Car that he  
10              knew to be based on false evidence; and  
11              e. Defendant willfully engaged in the foregoing acts with malice  
12              in order to cause harm to Plaintiff.

13           4. BMW has submitted sufficient evidence to justify awarding its  
14           requested compensatory damages, and the recovery is directly  
15           proportional to Defendant's misconduct.

16           5. The amount of the below awarded punitive damages is  
17           proportionate to Defendant's financial condition, the amount of  
18           compensatory damages awarded, and the nature of Defendant's  
19           wrongful acts, as determined from evidence of such, which has been  
20           presented by Plaintiff to the Court.

21           6. Plaintiff conducted a thorough factual investigation of Defendant's  
22           misconduct, and, in its prove up, Plaintiff presented those facts to the  
23           Court by evidentiary declarations; notwithstanding Defendant being  
24           aware of the evidence presented by Plaintiff to the Court, Defendant  
25           did not respond to or dispute any of Plaintiff's factual averments.

26           7. It is improbable that Defendant's default resulted from excusable  
27           neglect.  
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1           8. Plaintiff would suffer prejudice if the Motion were denied.

2           **B. NOW THEREFORE, BASED ON THE FOREGOING FINDINGS OF**  
3           **FACT AND CONCLUSIONS OF LAW, JUDGMENT IS GRANTED IN**  
4           **FAVOR OF PLAINTIFF AND AGAINST DEFENDANT, AND**  
5           **PLAINTIFF SHALL RECOVER FROM DEFENDANT AS FOLLOWS:**

- 6           1. Compensatory Damages in the amount of **\$111,549.50;**  
7           2. Costs of Suit according to a Memorandum of Costs entered on the  
8           docket by the clerk of the Court; and  
9           3. Punitive Damages in the amount of \$0.00.

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12 Dated: January 15, 2016



13 THE HONORABLE GEORGE H WU  
14 UNITED STATES DISTRICT JUDGE  
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